

EXHIBIT 7

Page 1

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 OAKLAND DIVISION

4 CHRISTOPHER CORCORAN, et al.

5 Plaintiff,

6 vs.

No. 15-CV-03504-YGR

7 CVS PHARMACY, INC.,

8 Defendant.

9
10 **UNREDACTED VERSION**
11 **OF DOCUMENT -**
12 **TO BE FILED UNDER SEAL**
13 **(L.R. 79-5(d)(1)(D))**

14 VIDEOTAPED DEPOSITION OF WILLIAM JOHN BARRE

15

16 Thursday, November 17, 2016

17 12:59 P.M.

18

19 12670 High Bluff Drive
20 San Diego, California

21

22

23 Reported by:

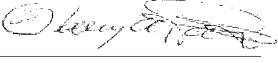
24 Harry Alan Palter

25 CSR No. 7708, Certified LiveNote Reporter

	Page 2		Page 4
1 APPEARANCES:		1 INDEX TO EXHIBITS	
2		2 WILLIAM JOHN BARRE	
3 For Plaintiffs:		3 Corcoran vs. CVS Pharmacy, Inc.	
4 STEIN MITCHELL CIPOLLONE BEATO & MISSNER		4 Thursday, November 17, 2016	
5 BY: ROBERT B. GILMORE		5 Harry Alan Palter, CSR No. 7708	
6 Attorney at Law		6	
7 1100 Connecticut Avenue, NW, Suite 1100		7 MARKED DESCRIPTION	PAGE
8 Washington, DC 20036		8 Defense Exhibit 299 CVS Pharmacy, Inc.'s	7
9 202.601.1589 Fax 202.352.1877		9 Amended Notice of	
10 E-mail: rgilmore@steinmitchell.com		10 Videotaped Deposition	
11 For CVS:		11 Defense Exhibit 300 MedImpact MedCare	20
12 WILLIAMS & CONNOLLY LLP		12 Attorneys at Law Pharmacy Network	
13 BY: COLLEEN McNAMARA		13 725 Twelfth Street, NW Agreement, CVSC-0333819	
14 GRANT GEYERMAN (TELEPHONICALLY)		14 Washington, D.C. 20005 through CVSC-0333863	
15 Attorneys at Law		15	
16 8725 Twelfth Street, NW		16 Defense Exhibit 301 Salesforce document,	35
17 Washington, D.C. 20005		17 Plaintiff Exhibit 606 MEDIMPACT000001 through	
18 202.434.5186 Fax 202.434.5029		18 MEDIMPACT000003	
19 E-mail: cmcnamara@wc.com		19	
20 ggeyerman@wc.com		20 •—————•	
21 For the Deponent:		21	
22 THE PHOENIX LAW GROUP		22	
23 BY: CANDIDA RUESGA		23	
24 Attorney at Law		24	
25 8765 East Bell Road, Suite 110		25	
26 Scottsdale, Arizona 85260			
27 480.444.3500			
28 E-mail: cruesga@phoenixlawgroup.com			
29 Videographer:			
30 Ryan LaFond			
31			
32			
33			
34			
35			
	Page 3		Page 5
1 INDEX	PAGE	1 San Diego, California	
2	2	2 Thursday, November 17, 2016; 12:59 P.M.	
3 APPEARANCES	3		
4 PROCEEDINGS	4		
5		5 THE VIDEOGRAPHER: All right. Good	
6 INDEX TO EXAMINATION		6 afternoon. We are on the record.	
7		7 This is the videotaped deposition of Bill	
8 WITNESS: WILLIAM JOHN BARRE		8 Barre in the matter of Christopher Corcoran, et al.,	
9		9 vs. CVS Pharmacy, Inc. This deposition is taking	
10 EXAMINATION OF:		10 place at 12670 High Bluff Drive, San Diego,	
11 Bill Barre		11 California 92130. Today's date is November 17th,	
12 BY MS. McNAMARA	6, 88	12 2016. Time on the record is 12:59.	
13 BY MR. GILMORE	50	13 My name is Ryan LaFond. I'm the	
14		14 videographer with U.S. Legal Support. Our certified	
15 WITNESS DECLARATION	90	15 court reporter is Harry Palter. Video and audio	
16 DEPOSITION ERRATA SHEET	91	16 recording will take place, unless all counsel have	
17 REPORTER'S CERTIFICATE	92	17 agreed to go off the record.	
18		18 Would all present please identify	
19 INDEX OF VIDEO MEDIA		19 themselves, beginning with the witness.	
20 Media No. 1	6	20 THE WITNESS: Bill Barre.	
21		21 MS. RUESGA: Candida Ruesga, Phoenix Law	
22 •—————•		22 Group, on behalf of MedImpact.	
23		23 MS. McNAMARA: Colleen McNamara and Grant	
24		24 Geyerman, on the phone, from Williams & Connolly on	
25		25 behalf of CVS pharmacy.	

<p style="text-align: right;">Page 22</p> <p>1 A It would be the agreement we would have 2 signed per that date. Previously, we may have had 3 other national agreements of some type. But to this 4 date, that would be, yes.</p> <p>5 Q And I'd like you to turn to page 20 of 6 the agreement. And that is the Bates label ending 7 in -838.</p> <p>8 A Hmm-hmm.</p> <p>9 Q And about two-thirds of the way down the 10 page is a definition of, "Usual and customary or 11 U&C." Do you see that?</p> <p>12 A Yes, I do.</p> <p>13 Q And it says, "Usual and customary or U&C, 14 means the lowest price member pharmacy would charge 15 to a cash-paying customer at that location for an 16 identical prescription on that day. This price must 17 include any applicable discounts, promotions, or 18 other offers to attract customers."</p> <p>19 Did I read that correctly?</p> <p>20 A Yes.</p> <p>21 Q And this would be the definition of "U&C" 22 that you and CVS agreed to as of the date of this 23 contract; correct?</p> <p>24 A Yes.</p> <p>25 Q Are you familiar with the term "cash</p>	<p style="text-align: right;">Page 24</p> <p>1 price. It would have been the price of that 2 particular card program separate.</p> <p>3 BY MS. McNAMARA:</p> <p>4 Q And why not? Why wouldn't cash discount 5 cards be included in this definition?</p> <p>6 A Our view of usual and customary is as 7 it's defined in this agreement here (Indicating); 8 someone that has walked off the street, has not 9 shown any other type of processing or adjudication 10 associated with that card.</p> <p>11 Passively, what would they be charged for 12 that drug without presenting any type of a -- other 13 form of either payment or form of a cash discount 14 card that would provide some type of a different 15 adjudication process.</p> <p>16 So from a passive basis, you or myself or 17 anybody walking off the street -- what would that 18 price of that product be at that store at that given 19 point in time?</p> <p>20 Q Got it.</p> <p>21 And did your understanding of whether 22 cash discount cards would be included in this U&C 23 definition ever change?</p> <p>24 A No.</p> <p>25 Q Do you recall that back in 2006, Walmart</p>
<p style="text-align: right;">Page 23</p> <p>1 discount card"?</p> <p>2 A Yes.</p> <p>3 Q What is a "cash discount card"?</p> <p>4 A A "cash discount card" is a card that a 5 consumer brings to a pharmacy and typically receives 6 a discount to that card compared to the pharmacy's 7 usual and customary price.</p> <p>8 Q And when you say, "discount compared to 9 the pharmacy's usual and customary price," what do 10 you mean?</p> <p>11 A We would negotiate a formula for pricing 12 drugs for cash discount business with a pharmacy or 13 a chain of pharmacies. And the claims would price 14 at those contracted, calculated rates or the 15 pharmacy's usual and customary, whichever is a lower 16 price.</p> <p>17 Q And at the time you executed this 18 agreement with CVS, did you understand the 19 definition of "usual and customary" to require CVS 20 to submit cash discount card prices as usual and 21 customary?</p> <p>22 MR. GILMORE: Objection. Form. 23 Foundation.</p> <p>24 THE WITNESS: No. We would not have 25 considered that to be their usual and customary</p>	<p style="text-align: right;">Page 25</p> <p>1 started to offer a list of generic drugs for \$4?</p> <p>2 A Yes.</p> <p>3 Q And what do you remember about that 4 offering?</p> <p>5 A Well, that Walmart -- it was 6 approximately 400 drugs, almost all generic. I 7 don't think there was any brand associated with 8 that. It was a 30-day supply. And they were 9 putting that list together and offering that as 10 their usual and customary price -- a \$4 price tag -- 11 for those particular drugs.</p> <p>12 Q And do you recall that they were offering 13 that price to anybody who walked in off the street 14 and purchased the drug?</p> <p>15 A We viewed that as Walmart's usual and 16 customary price. Again, it was a passive 17 experience. A person would not have to show any 18 type of ID card, or discount card or insurance card 19 or anything else to obtain that price.</p> <p>20 Q And do you recall in the 2007-2008 21 timeframe other pharmacies coming out with 22 membership programs offering special pricing on 23 generics?</p> <p>24 A Yes.</p> <p>25 Q And tell me what you remember about those</p>

Page 26	Page 28
1 programs. 2 A What I recall is that several pharmacy 3 chains offered a membership program to which -- may 4 or may not have had a fee applied to -- and it was a 5 card specific to that pharmacy. 6 So, in other words, if you had a CVS 7 program, it wouldn't work at Walgreens, by way of 8 example -- and because a person had actively joined 9 that program, they were eligible to either get 10 either 30-day programs or some 90-day programs and 11 others -- prescriptions for those day supplies at a 12 discounted price. 13 Q And did you view those programs as 14 different from the Walmart \$4 offering? 15 A Yes. 16 Q And why was that? 17 A Again, it's this passive vs. active 18 scenario. 19 In a passive model, the Walgreens usual 20 and customary was obtained by a consumer without 21 taking any action on their part. 22 In the example of a club program -- or 23 however you want to refer to these programs -- a 24 person had actively joined. They either registered 25 or gave their name and information, but they were	1 A The -- 2 MR. GILMORE: Objection. Form. 3 Foundation. 4 THE WITNESS: The membership program was 5 a program that a consumer actively enrolled in, as 6 if they were joining -- and that was different than 7 a usual and customary, which we viewed as what would 8 be that -- what would be that price point if a 9 consumer was not taking any action, simply coming to 10 the pharmacy and presenting their prescription 11 without any other insurance card or discount program 12 or anything of that nature; what would that price 13 calculate -- what would they choose to charge for 14 that price? 15 BY MS. McNAMARA: 16 Q And do you recall CVS having a membership 17 program? 18 A Yes. 19 Q And what do you recall about that 20 program? 21 A I remember the program came out -- I 22 believe the program was really specifically for 23 90 days' medications at the time. I believe they 24 had some type of charge associated with the program, 25 if I remember correctly. And the program began
Page 27	Page 29
1 connected to a specific type of program that an 2 individual not enrolled in that program would not be 3 eligible to receive that pricing model. 4 Q And you mentioned you recalled some 5 programs having a fee and others not having a fee. 6 Was the fee a determining factor for you 7 or was it the active-passive distinction that you've 8 been articulating? 9 A It was the active -- 10 MR. GILMORE: Objection. Form, 11 foundation. 12 THE WITNESS: Excuse me. 13 It was the -- it was the active vs. 14 passive. 15 In passive, again meaning Walmart, a 16 person took no action and received that opportunity. 17 As far as a CVS or Walgreens or any other 18 type of program of these "club programs" as we 19 generically referred to them as, the individual had 20 made a decision to actively become part of such 21 program. So we viewed that as different. 22 BY MS. McNAMARA: 23 Q And did you view those -- well, and tell 24 me how you viewed membership programs with respect 25 to the pharmacy's usual and customary price.	1 somewhere in the 2007 or '8 range. I can't exactly 2 remember when, but it sounds about right timewise. 3 Q And CVS's program was also an 4 enrollment-based program, to your recollection? 5 MR. GILMORE: Objection. Form. 6 Foundation. 7 THE WITNESS: Yes. We saw it as an 8 enrollment program. 9 BY MS. McNAMARA: 10 Q And how did you learn about CVS's 11 program? 12 A Don't remember exactly the specific 13 event, but it was generally known in the industry 14 that CVS was offering such programs. So whether -- 15 some type of chain drugstore publication or whether 16 some type of industry information piece -- I'm sure 17 that's how we found out about it. 18 Q And do you recall when you learned about 19 it? 20 A Somewhere right around the beginning that 21 it started. So in the 2007-'8 range, but not 22 specifically. 23 Q And do you recall discussing membership 24 programs with other MedImpact employees in your 25 group?

<p style="text-align: center;">Page 90</p> <p>1 DECLARATION UNDER PENALTY OF PERJURY</p> <p>2</p> <p>3 I, William John Barre, do hereby certify under</p> <p>4 penalty of perjury that I have read the foregoing</p> <p>5 transcript of my deposition taken on November 17, 2016;</p> <p>6 that I have made such corrections as appear noted on the</p> <p>7 Deposition Errata Sheet, attached hereto, signed by me;</p> <p>8 that my testimony as contained herein, as corrected, is</p> <p>9 true and correct.</p> <p>10</p> <p>11 Dated this _____ day of _____, 20____, at</p> <p>12 _____, California.</p> <p>13</p> <p>14</p> <p>15 _____</p> <p>16 William John Barre</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	Page 92
	<p>1 STATE OF CALIFORNIA)</p> <p>2)</p> <p>3 COUNTY OF SAN DIEGO)</p> <p>4</p> <p>5</p> <p>6 I, Harry A. Palter, a Certified Shorthand</p> <p>7 Reporter of the State of California, do hereby certify:</p> <p>8 That prior to being examined, the witness in</p> <p>9 the foregoing proceedings was by me duly sworn to</p> <p>10 testify to the truth, the whole truth, and nothing but</p> <p>11 the truth;</p> <p>12 That said proceedings were taken before me at</p> <p>13 the time and place therein set forth and were taken down</p> <p>14 by me in shorthand and thereafter transcribed into</p> <p>15 typewriting under my direction and supervision;</p> <p>16 I further certify that I am neither counsel</p> <p>17 for, nor related to, any party to said proceedings, nor</p> <p>18 in any way interested in the outcome thereof.</p> <p>19 In witness whereof, I have hereunto</p> <p>20 subscribed my name.</p> <p>21 Dated: November 18, 2016</p> <p>22</p> <p>23 </p> <p>24</p> <p>25 HARRY ALAN PALTER CSR No. 7708</p>
<p style="text-align: center;">Page 91</p> <p>1 DEPOSITION ERRATA SHEET</p> <p>2</p> <p>3 Page No. _____ Line No. _____</p> <p>4 Change: _____</p> <p>5 Reason for change: _____</p> <p>6</p> <p>7 Page No. _____ Line No. _____</p> <p>8 Change: _____</p> <p>9 Reason for change: _____</p> <p>10</p> <p>11 Page No. _____ Line No. _____</p> <p>12 Change: _____</p> <p>13 Reason for change: _____</p> <p>14</p> <p>15 Page No. _____ Line No. _____</p> <p>16 Change: _____</p> <p>17 Reason for change: _____</p> <p>18</p> <p>19 Page No. _____ Line No. _____</p> <p>20 Change: _____</p> <p>21 Reason for change: _____</p> <p>22</p> <p>23 Page No. _____ Line No. _____</p> <p>24 Change: _____</p> <p>25 Reason for change: _____</p>	